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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Slovakia

1. The Committee considered the initial report of Slovakia (CCPR/C/81/Add.9) at its 1589th to 1591st meetings on 15 and 16 July 1997 and subsequently adopted, at its 1611th meeting (sixtieth session), held on 30 July 1997, the following observations:

A. Introduction

2. The Committee welcomes the initial report of Slovakia and the constructive dialogue with the Committee. The Committee notes with regret that although the report contained comprehensive information on prevailing constitutional and legislative norms in the field of human rights, it did not provide specific information on the implementation of the Covenant in practice. However, the Committee expresses its appreciation for the answers provided by the delegation to questions asked in the course of the discussion, which enabled it to obtain a somewhat clearer picture of the actual human rights situation in the country.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee is aware that Slovakia is still in a period of transition from an authoritarian to a democratic system and that it recently acquired its independence after the dissolution of the Czech and Slovak Federation. The Committee notes with concern that the remnants of the former totalitarian rule

have not yet been completely overcome and that further steps remain to be undertaken in consolidating and developing democratic institutions and strengthening the implementation of the Covenant. The Committee also notes the persistence of political and social attitudes in the country adverse to the promotion and full protection of human rights. The Committee also notes with concern that the lack of clarity in the delimitation of the respective competences of the executive, legislative and judicial authorities may endanger the implementation of the rule of law and a consistent human rights policy.

C. Positive aspects

4. The Committee welcomes many recent developments in Slovakia that represent positive steps towards a better promotion and protection of human rights. In particular, the Committee welcomes the preferential status given to international treaties, including the Covenant, over domestic laws; the inclusion of an extensive and elaborate catalogue of fundamental rights, including minority rights, in the Constitution and the adaptation after Slovakia's independence of Constitutional Statute No. 23/1991 enacting a Charter of Fundamental Rights and Freedoms; and the application by the Constitutional Court of provisions of the Covenant, including reference to the Committee's general comments.

5. The Committee welcomes the succession by Slovakia to the Optional Protocol to the Covenant on individual communications.

6. The Committee notes with interest the establishment of institutions to deal with human rights issues, such as the Commission for Minorities, the Coordinating Commission on the Status of Women and the Special Representative for persons in need of particular assistance, and looks forward to information, in future reports, about their activities.

7. The Committee welcomes the adoption of measures aiming at redressing past injustices, such as the policy instituted by the Slovak Government, based on Law 87/1991 enacted by the Czech and Slovak Federation, allowing properties confiscated by the former Communist regime to be reclaimed by their former owners or their descendants, and the adoption of Act No. 282/1993 Coll., on the mitigation of certain property injustices done to churches and religious societies between 1945 and 1990, and between 1939 and 1990 in the case of properties previously owned by synagogues and Jewish societies.

8. The Committee commends the abolition of the death penalty in 1990 and recommends that Slovakia ratify the Second Optional Protocol to the Covenant.

9. The Committee notes with appreciation the establishment of special units composed of personnel receiving specific training within the Slovak police to deal with crimes against women and children, and the enactment of new laws to deal with violence against women and the sexual exploitation of children.

10. The Committee welcomes the adoption of a new law on citizenship, which protects all children born in Slovakia from being stateless.

11. The Committee notes that various measures and steps are envisaged by the Slovak authorities to further promote and protect human rights, including the setting up of an Office of Ombudsman for Human Rights, and urges their rapid implementation. It notes Slovakia's readiness to develop international cooperation to secure either Czech or Slovak citizenship for all Roma children already born and the intention expressed by the delegation to publish and disseminate the full text of the Committee's concluding observations.

D. Subjects of concern and the Committee's recommendations

12. The Committee notes with concern that insufficient steps have been taken to date to implement various provisions of the Constitution dealing with fundamental rights and of the Covenant. In particular, the Committee regrets the absence or inadequacy of laws regulating matters relating to article 14 of the Covenant, with respect to the appointment of members of the judiciary; article 4 of the Covenant; article 18, with respect to the right to conscientious objection to military service without a punitive extension of the period of service; and article 25 of the Covenant.

13. The Committee regrets the lack of clarity regarding the interrelationship of articles 11, 125 and 132 of the Constitution, especially as to the Constitutional Court's competence conclusively to ensure that acts and regulations of central or local governments comply with the Constitution and international treaties, including the Covenant.

14. The Committee expresses its concern over substantiated reports of discrimination, particularly against women, and notes that independent complaint mechanisms for victims of all forms of discrimination do not exist. Therefore:

the Committee recommends that: (a) priority be given to addressing discrimination, in particular through training and education campaigns; and (b) mechanisms to monitor non-discrimination laws and to receive and investigate complaints from victims urgently be established.

15. The Committee is concerned about reports that Roma people are often victims of racist attacks, without receiving adequate protection from law enforcement officers. Therefore:

the Committee reiterates its recommendations made under (a) and (b) of paragraph 14 above.

16. The Committee is concerned about cases of excessive use of force by law enforcement officials as well as maltreatment of detainees during police custody. The Committee notes that the law enforcement system will only be able to function properly when sufficient attention is given to the training of law enforcement officials. Therefore:

the Committee recommends the setting up of appropriate training programmes for law enforcement and custodial personnel in the field of human rights, especially on articles 7, 9 and 10 of the Covenant. More generally, the Committee recommends that training programmes be set up for professional groups such as judges, lawyers and public servants, and

that human rights education be provided in schools at all levels, in order to develop a culture of human rights within society.

17. The Committee regrets that insufficient information was provided on the actual compliance with the provisions of article 9 of the Covenant in relation to all forms of detention, in particular pre-trial administrative detention and detention of asylum seekers. Therefore:

the Committee recommends that the Government undertake a comprehensive analysis of legislation and practice relating to administrative detention to assess its compliance with article 9 of the Covenant.

18. With respect to article 14 of the Covenant, the Committee notes with concern that the present rules governing the appointment of judges by the Government with approval of Parliament could have a negative effect on the independence of the judiciary. Therefore:

the Committee recommends that specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence through the adoption of laws regulating the appointment, remuneration, tenure, dismissal and disciplining of members of the judiciary, be adopted as a matter of priority.

19. The Committee also notes with concern that the right to free legal assistance provided for by article 14, paragraph 3 (d), of the Covenant does not seem to be guaranteed in all cases, but only in cases for which the maximum penalty is more than five years' imprisonment. It further notes with concern that although the law provides for the assistance of a lawyer immediately after arrest, many cases of failure to respect this right during police custody were reported. Therefore:

the Committee recommends that legislation regulating the provision of free legal assistance be reviewed to ensure that it conforms to the Covenant, and that the implementation of laws and regulations governing the presence and assistance of lawyers be closely monitored.

20. The Committee further notes with concern that civilians may be tried by military courts in certain cases, including betrayal of State secrets, espionage and State security. Therefore:

the Committee recommends that the Criminal Code be amended so as to prohibit the trial of civilians by military tribunals in any circumstances.

21. The Committee notes that Act No. 308/1991 Coll. on freedom of religion and the status of churches and religious societies and Acts No. 83/1990 Coll., 300/1990 Coll. and 62/1993 Coll. on the association of citizens require that churches, religious societies, associations and non-governmental organizations be registered in order to function freely and/or to receive subsidies from the State. Given that prerequisites to this registration are very restrictive, some churches and religious or other associations are excluded from being legally recognized. Therefore:

the Committee recommends that all necessary measures be adopted in order to amend the relevant legislation so as to bring it into conformity with articles 18 and 22 of the Covenant.

22. The Committee has a number of concerns with respect to freedom of expression under article 19 of the Covenant. First, article 98 of the Penal Code makes it an offence to "disseminate false information abroad which harms the interest" of Slovakia; this terminology, in the Code of 1996, is so broadly phrased as to lack any specificity and carries the risk of restricting freedom of expression beyond the limits allowable under article 19, paragraph 3, of the Covenant. Second the interference by the Government with the direction of its State-owned television also carries a danger of violating article 19 of the Covenant. Third, lawsuits for defamation resulting from expressed criticism of the Government pose a similar problem. Therefore:

the Committee recommends that all these three aspects should be reviewed and any necessary legislation passed to eliminate any inconsistency with the Covenant.

23. The Committee is concerned by the absence of judicial guarantees with respect to telephone-tapping during the pre-trial investigation of crime. Therefore:

the Committee recommends that interception of confidential communications be always subject to control by an independent judicial authority.

24. With respect to article 27 of the Covenant, the Committee notes with concern that no steps have yet been taken to adopt legislation to implement articles 6 (b) and 34, paragraph 2 (b), of the Constitution on the use of minority languages after the annulment of the 1990 Act on the Official Language, and that, as a consequence, the use of minority languages in official communications is not secure. Therefore:

the Committee recommends that legislation be rapidly adopted to secure language rights for minorities, with due consideration being given to the provisions of the Covenant and to the Committee's general comment 23(50). The Committee is concerned that insufficient provision, in particular in relation to allocation of resources, is made in the field of educational and cultural rights for the benefit of the Hungarian minority.

25. The Committee expresses its regret that certain questions asked during the discussion with the delegation have not been answered, and requests that additional information be provided to the Committee on the implementation of constitutional provisions relating to human rights, mentioned in paragraph 12 above; institutions designed to protect human rights; the relationship between articles 11, 125 and 132 of the Constitution; the right to free legal assistance; the application of article 9 of the Covenant to all forms of

detention, including detention of asylum seekers; and action to ensure that school textbooks do not contain material tending to promote anti-Semitic and other racist views.

26. The Committee draws to the attention of the Government of Slovakia the provisions of paragraph 6 (a) of the guidelines regarding the form and contents of periodic reports from States parties and requests accordingly that its next report, due on 31 December 2001, contain material which responds to all the questions raised in the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Slovakia.